



State Human Rights Committee 2013 Annual Report On the Status of the Human Rights System

Approved by the
State Human Rights Committee
April 18, 2014

Presented to the
State Board of Behavioral Health and Developmental Services
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Table of Contents

Message from the Committee Chair and Program Director	2
Overview	4
Mission and Structure	8
State Human Rights Committee Members	9
State Human Rights Committee Activities	13
LHRC Bylaws	13
Variances	13
LHRC Appointments	13
Meetings	13
Case Reviews	14
SHRC 2014-2016 Goals and Recommendations	15
Office of Human Rights Program Highlights	19
Local Human Rights Committees	23
Advocate Activities	23
Summary of Community Human Rights Complaints and Abuse/Neglect Allegations	25
Summary of State Facility Human Rights Complaints and Abuse/Neglect Allegations	27

Message from the SHRC Chair and the Director of Human Rights

This annual report presents the activities and achievements of the State Human Rights Committee (SHRC) and the Office of Human Rights (OHR) in 2013 in accordance with our duties and responsibilities under the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. It is our hope that this report enlightens you about the protection of the human rights of individuals receiving services and the contributions of Virginia's citizens who serve as volunteers to assure these rights.

The State Human Rights Committee continued its long-standing practice of conducting its meetings at community programs and state facilities across the Commonwealth. This practice is extremely important to our consumers, families, volunteers, staff, SHRC members and the Office of Human Rights staff. It provided first-hand knowledge and familiarity with services that are available and provided in a variety of settings. We held meetings at one state facility, three private locations, DBHDS Central Office and two Community Services Boards/Behavioral Health Authorities. These meetings provided opportunities for the SHRC to receive feedback from consumers about quality of care, meet our service providers, visit community-based programs and share points of view about human rights issues. Consumers, staff, and family members also shared their experiences and ideas as to how the SHRC could improve the effectiveness and efficiency of services delivered in facility and community settings.

A critical function of the SHRC is to serve as the final step in the complaint resolution process. In 2013, approximately 6,014 allegations of abuse or neglect (over 50% of the allegations of abuse/neglect were acts of peer on peer aggression) and 4283 human rights complaints were managed through the statewide human rights system and all but eighteen of those were resolved at the provider level. The SHRC heard seven of those complaints on appeal. If responsiveness to consumer complaints is an indicator of system success, then the fact that over 99% of complaints are resolved at the lowest level indicates a highly effective system of dispute resolution. The SHRC commends the consumers, providers, advocates and family members who worked together to resolve these issues.

During the past year the SHRC continued its efforts to increase monitoring of the human rights system through the development of goals and objectives that address specific areas of concern. The committee engaged in dialogue with staff regarding the committee's concern about the quality of treatment and limitations the system imposes upon consumers including delay in discharge and treatment of children and adolescents. This dialogue was further informed by the outstanding annual reports each region prepared and presented to the committee throughout the year. The committee also was enlightened by the presentations of experts such as Ms. Heidi Dix, Assistant Commissioner DBHDS, Dr. Les Saltzberg, Director of Licensing, Mr. Russell Payne, Office of Mental Health Services, Ms. Janet Lung, Director, Office of Child and Adolescent Services, Dr. Anita Schlank, Director, Clinical Services, Virginia Center for

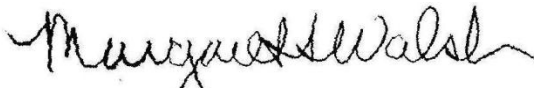
Behavioral Rehabilitation (VCBR), Karen Taylor, DBHDS Special Counsel, Office of the Attorney General, Mr. John Pezzoli, Assistant Commissioner for Behavioral Health Services, Ms. Vicki Montgomery, Director, Central State Hospital, Dr. Michael Schaeffer, Forensic Coordinator, Mr. Jim Martinez, Director of Behavioral Healthcare, and Ms. Marion Greenfield, Director, Office of Clinical Quality and Risk Management, on issues related to our goals. More details about our goals, objectives and activities can be found later in the report.

The State Human Rights Committee continued to focus on specific issues impacting individuals under forensic status. The Committee is particularly concerned about the census management/flow-through issues impacting Central State Hospital and Eastern State Hospital and the rights, management and security of individuals found not guilty by reason of insanity (NGRI). The Committee was pleased to hear of the progress the Office of Forensic Services is making with all of their issues as well its efforts to educate attorneys and others in the legal system regarding the impact of a finding of NGRI.

We extend our sincere gratitude to the Office of Human Rights staff and our volunteers who serve on Local Human Rights Committees and the State Human Rights Committee for their tremendous effort in support of the human rights program. We are proud of this year's accomplishments and look forward to the future with confidence that with our dedicated staff, loyal volunteers and the support of the Virginia Department of Behavioral Health and Developmental Services, we will succeed in making this program the best possible.



Carolyn DeVilbiss, Chair
State Human Rights Committee



Margaret Walsh, Director
Office of Human Rights

Overview

The Department's Office of Human Rights, established in 1978, has as its basis the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. The Regulations outline the Department's responsibility for assuring the protection of the rights of consumers in facilities and programs operated, funded and licensed by DBHDS.

Title 37.2-400, Code of Virginia (1950), as amended, and the Office of Human Rights assure that each consumer has the right to:

- Retain his legal rights as provided by state and federal law;
- Receive prompt evaluation and treatment or training about which he is informed insofar as he is capable of understanding;
- Be treated with dignity as a human being and be free from abuse and neglect;
- Not be the subject of experimental or investigational research without his prior written and informed consent or that of his legally authorized representative.
- Be afforded the opportunity to have access to consultation with a private physician at his own expense;
- Be treated under the least restrictive conditions consistent with his condition and not be subjected to unnecessary physical restraint or isolation;
- Be allowed to send and receive sealed letter mail;
- Have access to his medical and mental records and be assured of their confidentiality;
- Have the right to an impartial review of violations of the rights assured under section 37.2-400 and the right to access legal counsel;
- Be afforded the appropriate opportunities to participate in the development and implementation of his individualized service plan; and
- Be afforded the opportunity to have an individual of his choice notified of his general condition, location, and transfer to another facility.

The State Human Rights Committee's function is to monitor and make suggestions regarding the protection of the legal and human rights of consumers who receive services in programs or facilities operated, funded or licensed by the Department of Behavioral Health and Developmental Services, and to ensure that services are provided in a manner compatible with human dignity and under the least restrictive conditions consistent with the consumer's needs and available services. The SHRC has the responsibility of monitoring and evaluating the implementation and enforcement of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services* promulgated pursuant to §37.2-400 of the Code of Virginia, as amended.

The State Human Rights Committee (SHRC)

- ◆ The SHRC consists of nine members appointed by the DBHDS State Board (hereinafter the Board).
 - a. Members shall be broadly representative of professional and consumer interests and of geographic areas of the Commonwealth. At least two members shall be individuals who are receiving services or have received within five years of their initial appointment public or private mental health, mental retardation, or substance abuse treatment or habilitation services. At least one-third shall be consumers or family members of similar individuals.
 - b. At least one member shall be a health care professional.
 - c. Members cannot be an employee or Board member of the Department or a Community Services Board.
 - d. If there is a vacancy, interim appointments may be made for the remainder of the unexpired term.
 - e. A person may be appointed for no more than two consecutive terms. A person appointed to fill a vacancy may serve out that term, and then be eligible for two additional consecutive terms.

Duties and Responsibilities:

- ◆ Elect a chair from its own members who shall:
 - a. Coordinate the activities of the SHRC;
 - b. Preside at regular meetings, hearings and appeals; and
 - c. Have direct access to the Commissioner and the Board in carrying out these duties.
- ◆ Upon request of the Commissioner, Human Rights Advocate, provider, Director, an individual or individuals receiving services, or on its own initiative, the SHRC may review any existing or proposed policies, procedures, or practices that could jeopardize the rights of one or more individuals receiving services from any provider. In conducting this review, the SHRC may consult with any Human Rights Advocate, employee of the Director, or

anyone else. After this review, the SHRC shall make recommendations to the Director or Commissioner concerning changes in these policies, procedures, and practices.

- ◆ Determine the appropriate number and geographical boundaries of LHRCs and consolidate LHRCs serving only one provider into regional LHRCs whenever consolidation would assure greater protection of rights under the regulations.
- ◆ Appoint members of LHRCs with the advice of and consultation with the Commissioner and the State Human Rights Director.
- ◆ Advise and consult with the Commissioner in the employment of the State Human Rights Director and Human Rights Advocates.
- ◆ Conduct at least eight regular meetings per year.
- ◆ Review decisions of LHRCs and, if appropriate, hold hearings and make recommendations to the Commissioner, the Board, and providers' governing bodies regarding alleged violations of individuals' rights according to the procedures specified in the regulations.
- ◆ Provide oversight and assistance to LHRCs in the performance of their duties hereunder, including the development of guidance documents such as sample bylaws, affiliation agreements, and minutes.
- ◆ Review denials of LHRC affiliations.
- ◆ Notify the Commissioner and the State Human Rights Director whenever it determines that its recommendations in a particular case are of general interest and applicability to providers, Human Rights Advocates or LHRCs and assure the availability of the opinion or report to providers, Human Rights Advocates, and LHRCs as appropriate. No document made available shall identify the name of individuals or employees in a particular case.
- ◆ Grant or deny variances according to the procedures specified in Part V (12 VAC 35-115-220) of the regulations and review active variances at least once every year.
- ◆ Make recommendations to the Board concerning proposed revisions to the regulations.
- ◆ Make recommendations to the Commissioner concerning revisions to any existing or proposed laws, regulations, policies, procedures, and practices to ensure the protection of individuals' rights.
- ◆ Review the scope and content of training programs designed by the department to promote responsible performance of the duties assigned under the regulations by providers, employees, Human Rights Advocates, and LHRC members, and, where appropriate, make recommendations to the Commissioner.
- ◆ Evaluate the implementation of the regulations and make any necessary and appropriate recommendations to the Board, the Commissioner, and the State Human Rights Director concerning interpretation and enforcement of the regulations.
- ◆ Submit a report on its activities to the Board each year.

- ◆ Adopt written bylaws that address procedures for conducting business; making membership recommendations to the Board; electing a chair, vice chair, secretary and other officers; appointing members of LHRCs; designating standing committees and their responsibilities; establishing ad hoc committees; and setting the frequency of meetings.
- ◆ Review and approve the bylaws of LHRCs.
- ◆ Publish an annual report of the status of human rights in the mental health, mental retardation, and substance abuse treatment and services in Virginia and make recommendations for improvement.
- ◆ Require members to recuse themselves from all cases where they have a financial, family or other conflict of interest.
- ◆ Perform any other duties required under the regulations.

Mission Statement

The Office of Human Rights assists the Department in fulfilling its legislative mandate under §37.2-400 of the Code of Virginia to assure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed or funded by the Department.

The mission of the Office of Human Rights is to monitor compliance with the human rights regulations by promoting the basic precepts of human dignity, advocating for the rights of persons with disabilities in our service delivery systems, and managing the DBHDS Human Rights dispute resolution program.

Structure

The Office of Human Rights is located within the Department of Behavioral Health and Developmental Services and is supervised by the State Human Rights Director. The State Human Rights Director oversees statewide human rights activities and provides guidance and direction to human rights staff.

The **State Human Rights Committee** consists of nine volunteers, who are broadly representative of various professional and consumer groups, and geographic areas of the State. Members of the SHRC are appointed by the DBHDS State Board and acts as an independent body to oversee the implementation of the human rights program. Its duties include to: receive, coordinate and make recommendations for revisions to regulations; review the scope and content of training programs; monitor and evaluate the implementation and enforcement of the regulations; hear and render decisions on appeals from complaints heard but not resolved at the LHRC level; review and approve requests for variances to the regulations; review and approve LHRC bylaws, and; appoint LHRC members.

The **Local Human Rights Committees** are committees of community volunteers who are broadly representative of various professional and consumer interests. LHRCs play a vital role in the Department's human rights program, serving as an external component of the human rights system. LHRCs review consumer complaints not resolved at the program level; review and make recommendations concerning variances to the regulations; review program policies, procedures and practices and make recommendations for change; conduct investigations, and; review restrictive programming.

Advocates represent consumers whose rights are alleged to have been violated and perform other duties for the purpose of preventing rights violations. Each state facility has at least one advocate assigned. Advocates who serve state facilities and regional advocates are assigned to community public and private programs. The Commissioner in consultation with the State Human Rights Director appoints advocates. Their duties include investigating complaints, examining conditions that impact consumer rights and monitoring compliance with the human rights regulations.

State Human Rights Committee Members

Chairperson

Carolyn M. DeVilbiss

Ms. Carolyn M. DeVilbiss, LCSW, is a retired mental health manager and former employee of Fairfax-Falls Church Community Services Board and Mount Vernon Outpatient Unit. She has experience in discharge planning for clients hospitalized in State and local hospitals as well as experience in the oversight of medication services, therapy and case management activities. Ms. DeVilbiss was appointed to the SHRC by the State MHMRSAS Board on June 3, 2008, for a term of July 1, 2008 to June 30, 2011, and reappointed for a term of July 1, 2011 to June 30, 2014. Ms. DeVilbiss resides in Alexandria.

Vice-Chairperson

Thomas “TC” Bullock

Mr. Thomas C. Bullock is a retired Hearings Officer and Hostage Negotiator for the Department of Corrections at Mecklenburg Correctional Center. In his 35 years of experience in the correctional system he has had regular contact with individuals with mental health issues. Mr. Bullock came to the SHRC after serving as a member and as Chair of the Southside Community Services Board Local Human Rights Committee. Mr. Bullock was appointed by the DBHDS State Board for a term of July 1, 2010 to July 30, 2013. Mr. Bullock resides in South Hill.

Penny Cameron

Ms. Penny Cameron is a Licensed Nurse Practitioner Mental Health Therapist formerly with Fairfax County Government. She has over 20 years of experience as Director of Partial Hospitalization where she has managed multidisciplinary treatment teams at various mental health centers. Ms. Cameron has provided review of services and services delivery of treatment for clients with a history of substance abuse and mental illness. She has over 30 years experience in psychiatry and 18 years internal medicine experience in community mental health. Ms. Cameron was appointed to the SHRC by the DBHDS State Board for a term of July 1, 2010 to July 30, 2013. Ms. Cameron resides in Great Falls.

Ms. Vicki Cash-Graff

Ms. Victoria Cash Graff is a Licensed Clinical Social Worker and Certified Sex Offender Treatment Provider. As a specialist in the field of sexual offenders, Ms. Cash Graff has worked extensively with adult and juvenile offenders in community based treatment. Her presence on the SHRC provides the committee with the expertise needed to fulfill its obligation to provide rights protections to the consumers of Virginia Center for Behavioral Rehabilitation. Ms. Cash Graff was appointed in October 2012 to fill a vacant term of July 1, 2012 to June 30, 2015. Ms. Cash Graff resides in Staunton.

Mr. Timothy Russell

Mr. Timothy Russell is a research assistant and adjunct faculty at the College of William and Mary. He is a former Transitional Living Counselor at ValuMark West End Behavioral Health Care. Mr. Russell is a former member of Newport News Regional LHRC and a former member and Chair of Williamsburg Regional LHRC. He provides the SHRC with the perspective of a consumer of DBHDS services. Mr. Russell was appointed in October 2012 to fill a vacant term of July 1, 2012 to June 30, 2015. Mr. Russell resides in Williamsburg.

Ms. Ann F. Bevan

Ms. Ann Bevan represents the Richmond area and works with NHS Human Services as their State Director. She received her BS in Psychology from VCU in 1988 and subsequently her MS in Rehabilitation Counseling from MCV in 1998. She has over 30 years experience in the field of working with individuals with disabilities. Work experience includes case management with Valley CSB, residential programs at Richmond Residential, Valley CSB and NHS Human Services, Community Resource Consultant with DBHDS and overall operational management at NHS Human Services to include IDD, behavioral health and substance use services. She was appointed to the SHRC in July 2013. Ms. Bevan resides in Mechanicsville.

Ms. Marietta Cottingham

Ms. Marietta Cottingham was born and reared in North Carolina. She pursued undergraduate studies at the New York Institute of Technology. She studied Behavioral Science at a number of different institutions. During this time she was employed in direct care with developmentally challenged individuals at the Staten Island Development Center (formerly the Willowbrook State School). Seeing these individuals, often housed in unspeakably poor conditions, influenced her to have a deep compassion for and empathy with people who have great needs. It was from this that she began on the path that has led her to her career. In 1980 she moved to Houston, Texas where she worked with the intellectually challenged and children at risk. She worked with incarcerated males at both the Texas Department of Corrections and the Fort Bend Juvenile Detention Center while providing sponsored residential care for two individuals who had moved to community living from a training center. She was employed in Texas for 20 years before moving to Virginia. She also did volunteer work for the Red Cross in Mississippi and Louisiana after the Hurricane Katrina disaster. Ms. Cottingham is an owner and member of the Board of Directors of Serenity C&C, Inc., a sponsored residential service, with offices in Hampton and Richmond. She works full time for the company and currently serves as Acting Program Director for Children's Services. In addition to working full time with her company she served on a Local Human Rights Committee for five and a half years. Ms. Cottingham resides in Hampton.

Mr. John Barrett

Mr. Barrett worked for DBHDS for 28 years starting at Northern Virginia Training Center in Fairfax in 1973 in the Administration Division as Assistant Director of

Admissions before transferring to the Central Office in Richmond. He worked there until his retirement in 1995 in Administration, Office of Licensing (Asst. Dir), and the Quality Assurance Division where he assisted State Hospitals in preparing for Joint Commission Surveys. After retiring from DBHDS, he joined Fidura & Associates, a private company providing services for individuals with Developmental Disabilities. As Director of Operations his duties included overseeing the Licensing and Human Rights activities of the Company. He retired after 14 years and he currently enjoys retired life. Mr. Barrett was a member of the Williamsburg Local Human Rights Committee for five years, the last two serving as the Chairperson. Mr. Barrett has resides in Richmond and the Eastern Shore.

Dr. Ioannis Stivachtis

Dr. Ioannis (Yannis) Stivachtis is Associate Professor of Political Science at Virginia Tech where he currently serves as Associate Department Chair and Director of the International Studies Program. He holds a Ph.D. in Politics & International Relations (Lancaster, UK 1996); an M.A. in International Relations & Strategic Studies (Lancaster 1990); a Postgraduate Certificate in International Law (Panteion University, Greece 1989) and a B.A. in International Studies (Panteion 1988). His personal and professional interest in issues pertaining to human rights, diversity and difference, as well as social exclusion was his reason for joining the New River Valley LHRC in the Fall of 2005. From 2008 to 2013 he served as the Chair of New River Valley LHRC. Dr. Stivachtis resides in Blacksburg.

Officer Appointments / Membership Changes

Effective July 1, 2013

Ms. Carolyn M. DeVilbiss, Chair
Mr. Thomas C. Bullock, Vice Chair

Appointments July 1, 2013

Ms. Ann F. Bevan
Ms. Marietta Cottingham
Mr. John Barrett
Dr. Ioannis Stivachtis

Reappointments effective July 1, 2013

Mr. Thomas C. Bullock
Ms. Penny Cameron

Term ending July 1, 2013

Mr. Donald Lyons

Ms. Jannie Robinson

Resignations

Mr. Frank Royal (July, 2013)

Mr. Randy Johnsey (April, 2013)

State Human Rights Committee Activities

- **LHRC Bylaws**

The SHRC reviewed and approved revised bylaws of 4 local human rights committees.

- **Variances**

The SHRC reviewed and approved eleven variances to the regulations.

- **LHRC Appointments**

The SHRC appointed 122 individuals to serve on Local Human Rights Committees.

- **Meetings**

In 2013 the State Human Rights Committee held the following meetings:

January 25	DBHDS Central Office Richmond, VA
March 8	Loudoun County CSB Leesburg, Virginia
April 19	Virginia Home for Boys & Girls Richmond, Virginia
June 7	Good Neighbor Homes Richmond, Virginia
July 19	Piedmont Geriatric Hospital Burkeville, VA
September 12 & 13	New River Valley CSB Blacksburg, Virginia
October 25	Riverside Behavioral Health Center Hampton, Virginia
December 13	DBHDS Central Office Richmond, VA

Meeting at various facilities and programs throughout the state provides the Committee with firsthand knowledge and familiarity with the kinds of services available to consumers and the settings within which services are provided.

- **Case Reviews**

Making decisions regarding consumer appeals is among the most challenging and important tasks for the SHRC. A total of more than 10,297 human rights and abuse/neglect complaints were processed through the human rights resolution process in 2013. All but 18 of these cases were resolved at the Director's level or below. Those cases were appealed to local human rights committees, and seven of those cases were brought before the State Human Rights Committee on appeal. Each case provided the consumer with an additional opportunity to be heard regarding their human rights complaint. These appeals are the culmination of the human rights process and the decisions rendered by the SHRC provide guidance to LHRCs, facilities and programs across the state.

Issues addressed in decisions rendered by the SHRC, and local committees this past year included:

- * right to protection from harm, abuse and exploitation
- * right to services according to sound therapeutic practice
- * right to treatment with dignity
- * right to informed consent
- * right to participation in decision-making
- * right to freedoms of everyday life

SHRC Biennium Goals and Recommendations for 2014-2016

Biennium Goal # 1

Promote consistent statewide implementation of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. Indicators include:

- Updated policies and procedures
- Training
- Resources
- Review of the human rights regulations
- Participation in any Department effort to revise the regulations

Progress toward Biennium Goal #1 in 2013:

The SHRC reviewed VCBR appeals at each meeting throughout the year. A total of 43 cases were reviewed by the VCBR Appeals Committee.

Dr. Michael Schaeffer, Director of the Office of Forensic Services, provided an update on forensic services including jail services, the NGRI process and transfer of individuals between state facilities.

Dr. Les Saltsburg, Director of the Office of Licensing, provided an update on the activities of his office including the licensing process and monitoring and investigation activities.

John Pezzoli, Assistant Commissioner for Behavioral Health Services, gave an update on the Patient Fund issue that has been under review for several years. The revised patient fund policy is complete and has been implemented.

The SHRC issued guidance to the LHRCs regarding using reports from the web based reporting system known as CHRIS (Computerized Human Rights Information System), a system tool developed for providers to fulfill their reporting requirements.

Biennium Goal #2

The SHRC will promote the department's system transformation including the concepts of recovery and self empowerment.

Indicator:

- Consumers report satisfaction with quality of life and decision-making.

Progress toward Biennium Goal #2 in 2013:

Jim Martinez, Director of the Office of Mental Health Services provided an overview of the systems recovery efforts at the December meeting.

Biennium Goal #3

The SHRC recommends that DBHDS continue to promote the human rights concepts of treatment in the most integrated settings, and consumer and family choice that are central to the Olmstead Decision.

- Monitor the Department's response to DOJ
- Monitor state facility ready-for-discharge lists on a quarterly basis.
Indicators:
 - ❖ Discharge lists will be reduced;
 - ❖ Individuals are satisfied with services and life after discharge.
- Join and monitor the efforts of the Department and VACSB to increase the number of substitute decision makers.
Indicators:
 - ❖ Providers support, teach and encourage individuals to make their own decisions.
 - ❖ Public Guardianship funds are used appropriately to discharge individuals from training centers.
 - ❖ Promote alternative decision making avenues such as Power of Attorney and Advance Directives.
- Monitor Department and system efforts toward maintaining youth in the community following their transition to adult services.
Indicators:
 - ❖ Youth in transition will receive appropriate services
 - ❖ Promote Provider Choice
 - a. Individuals receive services in a timely manner
 - b. Individuals and family members get full, unbiased choice of providers.

Progress toward Biennium Goal #3 in 2013:

Karen Taylor, Office of the Attorney General provided updates on changes to HealthCare Decision Act, the DOJ Agreement and annual FOIA training.

Heidi Dix, Assistant Commissioner, provided an update on the Department of Justice Settlement Agreement.

Russell Payne provided the SHRC with biannual updates on the status of the state hospital discharge ready lists.

Les Saltzberg provided updates on the Office of Licensing activities related to the DOJ Settlement Agreement.

The SHRC received updated information from disAbilityVA and DBHDS regarding the flow-through/census management issues affecting Central State Hospital and Eastern State Hospital.

Biennium Goal #4

The SHRC recommends that DBHDS continue to promote the concept of, and provide training in, treatment without coercion in state operated facilities and community based programs and hospitals.

- State Facilities will reduce the use of seclusion and restraint.

Progress toward Biennium Goal #4 in 2013:

Marion Greenfield, Director of Quality and Risk Management, presented an update on the Department and systems efforts to reduce seclusion and restraint.

Biennium Goal # 5

The SHRC will be efficient and effective.

- Required tasks will be completed in a timely manner

Progress toward Biennium Goal #5 in 2013:

The SHRC reviews the LHRC vacancy list at every meeting.
The Committee drafted a guidance document on Role of SHRC Member When Attending Local Human Committee Meetings.

Biennium Goal # 6

The SHRC will monitor the Virginia Center for Behavioral Rehabilitation's adherence to the human rights regulations through reports, policies, and complaint resolution as needed at every meeting or as issues arise.

- Residents are treated with dignity and respect

Progress toward Biennium Goal #6 to date:

The SHRC takes its role as the oversight committee for VCBR seriously. The Committee completed the following activities related to this role in 2013:

- Reviewed and commented on 7 policies and procedures
- Processed 43 appeals of complaints.

- Engaged in discussions with the Director, Clinical Director and Quality Assurance/Compliance Director about issues and concerns.
- Met with the Resident Advisory Council (RAC) to listen to their concerns.

Biennium Goal # 7

The SHRC will support Local Human Rights Committees.

- Each SHRC member will attend at least one LHRC meeting per year. SHRC members will provide prior notice to the LHRC chair requesting time on the agenda in order to make brief comments.
- Enhance communication with LHRCs.
 - Explore an email distribution list

Progress toward Biennium Goal #7 to date:

The SHRC published 1 volume of Human Writes in 2013.
SHRC members attended meetings of local committees.

SHRC members attended 3 LHRC meetings in 2013 for the specific purpose of supporting full membership of those committees by reminding providers of their duty to recruit members and the potential impact the lack of full membership has upon the continuation of the committee.

Biennium Goal # 8

The SHRC will promote and provide ongoing training opportunities for all stakeholders.

- Enhance leadership skills of LHRC members

Progress toward Biennium Goal #8 to date:

The SHRC issues guidance to LHRC members in the newsletter and memorandum.

Biennium Goal # 9

The SHRC will recognize the service of LHRC members.

Progress toward Biennium Goal #9 to date:

A member of a local committee is featured in each volume of Human Writes.

Office of Human Rights Program Highlights

Staffing

For the first time in years, the Office of Human Rights had no staffing changes during the year. However, Jennifer Kovach accepted the new ID Advocate position at the end of 2013 and we successfully filled her position in early 2014 with Mandy Crowder. We start 2014 fully staffed.

The proliferation of new providers across the state continues to create challenges for the office. Regional staff worked with new providers to facilitate licensure in order to provide services to individuals. The numbers below do not reflect the number of actual service locations that a particular provider may operate. For example, a provider of sponsored residential services may provide service at 30 different locations.

The number of providers per region in 2013 is as follows:

- 123 in Region I
- 134 in Region II
- 87 in Region III
- 388 in Region IV
- 338 in Region V
- 145 in Region VI

The number of new providers per region in 2013 is as follows:

- 5 in Region I
- 14 in Region II
- 13 in Region III
- 57 in Region IV
- 58 in Region V
- 13 in Region VI

The number of LHRCs per region in 2013 follows:

- 10 in Region I
- 9 in Region II
- 8 in Region III
- 17 in Region IV
- 26 in Region V
- 7 in Region VI

The OHR continues to promote the cross training of all advocates. At this time, most advocates provide services to both community and state facility programs. This arrangement strengthens both the community and facility programs by providing continuity of care and an increased emphasis on discharge planning and service development.

Efforts to promote compliance with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services* continued throughout the year. OHR staff provided over 115 training events in 2013. These efforts included the following activities:

Training: OHR staff provided training to consumers, family members or providers at the following locations:

- Club Houses
- Psychiatric Hospitals
- Professional Organizations
- Parent Organizations
- Group Homes
- Residential Treatment Centers
- Training Centers
- Psychosocial Rehabilitation Programs
- Community Organizations
- Substance Abuse Programs
- Conferences/Meetings
- Community Services Boards
- Preadmission Screening Evaluator Certification (video tape)

Web based Information: Individuals can also access general information about the human rights program at www.DBHDS.virginia.gov. Click on Human Rights on the left side of the page. This information includes:

- Notice of SHRC meetings
- Notice of Variance requests
- LHRC affiliations and meeting schedules
- Relevant legislative information
- OHR Directory
- SHRC Annual Reports
- Frequently Asked Questions (FAQs)
- Human rights training information including video tapes, power point slide presentations and workbook
- Sample Test Questions

Training and Staff Development

In order to increase communication and information sharing, the Office of Human Rights scheduled frequent conference calls in 2013. These calls were held in January, February, March, April, May, June, August, September, November and December. A two day staff meeting was held at central office in July.

All training and meetings focused on enhancing staff ability to effectively advocate for individuals, and monitor the implementation of the regulations. Samples of topics addressed during these meetings include the following:

- General Assembly updates
- Department of Justice updates
- OHR actions in response to the SHRC Implementation memo
- Medication over objection (guidance)
- CHRIS and other data sources
- LHRC Annual and Quarterly Report development and implementation
- Forensic issues
- Individual's losing services
- At Risk Children
- OHR relationship with VOPA
- Seclusion and restraint
- LHRC document shredding; revision to Bylaws
- Office of Licensing issues and organizational changes
- State facility building updates (SEVTC, WSH, CVTC)

System Improvement

Efforts to transform the DBHDS system continued in 2013 with the implementation of the *Creating Opportunities: A Plan for Advancing Community-Focused Services in Virginia*. This plan guides the Department's efforts toward increased community focused services. The plan focuses on enhancing community based services and supports. The human rights system is central to this effort as the human rights regulations apply to individuals served by providers licensed, operated or funded by DBHDS. The work and effort of the State Human Rights Committee and the Office of Human Rights continue to increase in response to all the new services and providers developed as part of this effort.

Recovery efforts continue to move forward throughout the behavioral health system. DBHDS sponsored the BRSS TACKs Recovery Forum in 2013 to promote the concept of recovery among individuals and providers. A second Recovery Forum is scheduled for May 2014. Peer mentors and peer run centers are being developed and utilized as a means to enhance and support the recovery efforts of individuals with mental illness.

The Department of Justice (DOJ) and the State of Virginia entered into a Settlement Agreement in response to DOJ's letter outlining concerns about Virginia's efforts to comply with the Olmstead Act. The Department developed a comprehensive plan to address the goals of the Settlement Agreement. The Office of Human Rights has a critical role in monitoring the health, safety and rights of individuals discharged to community homes. During 2013 OHR completed 217 pre-move visits and 235 post move monitoring visits.

CHRIS and Reporting Requirements

The regulations require that providers report and investigate human rights complaints and allegations of abuse, neglect or exploitation. After years in development, CHRIS, a web based reporting system, was implemented for use by all providers in June 2013. As with many complex web based systems, problems remained throughout the year that limited some providers from fully accessing the system. As such, 2013 data was reported via the web based system and fax. We anticipate that as providers become more comfortable with the new application the quality of and confidence in the data will increase.

Projected Activities for 2013-2014

The primary goal for the Office of Human Rights for the year 2012-2013 is to provide quality advocacy services to consumers in programs operated, funded and licensed by the Department. This is always the central function of the OHR and all other goals and activities support this goal. In support of this goal a major activity for the upcoming year will be to promote consistent implementation of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. Other major projected activities for the Office of Human Rights for the year 2013-2014 are as follows:

- Submit the draft revised regulations to the State Board in April 2014.
- Promote community integration by assisting with the implementation of the DOJ activities.
- Provide training and guidance on the human rights regulations.
- Provide support to providers in fully using the web-based human rights reporting system.
- Promote best practice models of recovery and self empowerment
- Continue efforts to identify efficiencies in operation.
- Continue efforts to coordinate monitoring activities with the Office of Licensing
- Provide support, training and guidance to local human rights committees.
- Promote coercion free environments statewide.
- Work with consumers, providers, family members, professionals and other stakeholders to identify options to improve the system and availability of alternative decision-makers.
- Promote consistency and accurate documentation of monitoring activities.
- Develop resources to assist consumers and providers as needed.

Local Human Rights Committees

Local Human Rights Committees continue to monitor the activities of facilities and community programs in assuring protection of consumers' rights. The volunteers who serve on these committees lend their time and expertise to ensure compliance with the Rules and Regulations. Committee members are appointed by the State Human Rights Committee and are eligible to serve two three-year terms. Local Human Rights Committees or subcommittees held approximately 450 meetings in 2013.

All committees meet at least quarterly, with many meeting on a monthly basis. Local Human Rights Committees activities include:

- reviewing complaints filed on behalf of consumers;
- developing bylaws;
- reviewing variance requests;
- conducting fact-finding conferences;
- reviewing restrictive programs; and
- reviewing policies and procedures.

Advocates Activities

During the year the human rights staff was involved in numerous activities to ensure and protect the rights of consumers. These activities included:

Representing and assisting individuals in the presentation and resolution of complaints;

- 6014 total allegations of abuse/neglect 2013
- 5543 in licensed services
- 777 cases were founded in licensed services
- 471 in state operated services
- 139 cases were founded in state operated services

- 4283 total human rights complaints in 2013
- 1423 in licensed services
- 2860 in state operated services
- 4265 complaints and allegations of abuse and neglect were resolved at the Director level or lower
- 18 appealed to LHRC
- 7 appealed to SHRC
- 43 VCBR cases appealed to the Appeals Committee

- Investigating allegations of abuse and neglect and other potential violations of the regulations.
212 investigations in 2013
- Educating consumers, families, staff and Local Human Rights Committees on the rights of consumers;
307 training and advocacy activities in 2013
- Monitoring the implementation and compliance with the regulations;
477 announced and unannounced site visits in 2013
- Monitoring of individuals under the DOJ settlement agreement:
217 pre move visits
235 post move visits
- Providing training to staff, consumers, family members, LHRCs;
- Providing consultation on the human rights program to consumers, program staff, LHRCs, and advocacy and community groups.
- In addition to all of the above, the regional advocates and managers provide supervision to assigned staff.
- Regional staff/teams prepared comprehensive Regional Reports for 2013. These reports provide detailed statistics and information about human rights activities in each of the six regions. Each Regional Team presented their report to the SHRC.

Summary of Community Program Abuse/Neglect and Complaint Allegations

The following table reflects statistics on abuse/neglect allegations/substantiation and human rights complaints from community programs for the years 2001 through 2013. Prior to 2013 this information was reported to the Regional Advocates from public and private providers via fax. In 2013 providers transitioned to reporting via the web based reporting system (CHRS). The transition to CHRIS was not complete until January 2014. As such the 2013 data is a combination of fax reports and reports in CHRIS.

Because of the change to the new reporting system we believe that the data may include duplicate reports and other variances. Therefore, the 2013 data should be understood with a low level of confidence. Comparisons to previous years should be undertaken with caution.

- 1423 human rights complaints were reported to the Office of Human Rights via fax and CHRIS in 2013. This number includes complaints processed both formally and informally.
- 5543 allegations of abuse and/or neglect were reported to the Office of Human Rights via fax and CHRIS in 2013. Over 50% of these allegations results from peer on peer incidents that were investigated as potential neglect. Most of the reported peer on peer aggression occurs in residential treatment centers for children and adolescents.
- 777 substantiated cases of abuse and or neglect as reported to the Office of Human Rights in 2013.
- There are 871 licensed providers in the state. Those providers operate 2100 licensed services at 7441 locations.

Community Programs

	Abuse Allegations	Abuse cases Substantiated	Human Rights Complaints
2007	**4007	**340	**615
2008	**5402	**464	**1374
2009	**6765	**658	**1311
2010	**5710	**508	** 1021
2011	**6484	**543	**1016
2012	**6482	**609	** 1120
2013	+ 5543	+777	+1423

Note: Data for 2014 is incomplete

**Data from Regional Reports

+ 2013 Data is from CHRIS and Fax reports. May include duplicate reports

State Facilities

	Abuse Allegations	Abuse cases Substantiated	Human Rights Complaints
2007	608	118	650
2008	568	132	1435
2009	577	128	1411
2010	599	174	2424
2011	743	255	2710
2012	515	145	2817
2013	471	139	2860

Data from CHRIS

Summary of State Facility Human Rights Complaints and Abuse/Neglect Allegations

(Data source is CHRIS)

- 2860 human rights complaints were reported by state operated facilities in 2013. This number includes complaints processed both formally and informally and is statistical similar to the 2012 number of 2817. 1080 of these are from the Virginia Center for Behavioral Rehabilitation.
- 50 of the complaints were resolved above the Directors Level. 43 of the 50 were appeals to the VCBR Appeals Committee. The remaining 7 were from all other state facilities.
- 471 allegations of abuse/neglect were reported by state operated facilities. This is the lowest number of allegations of abuse and neglect reported by state operated facilities in many years. The data shows increases at CSH, SWVMHI and SVMHI and decreases at CVTC, NVMHI, SVTC, SWVTC and VCBR.
- The 139 substantiated cases of abuse and neglect is also lower than in past years.
- Because of the many variables affecting this data it is best used as a tool for quality improvement for a specific facility rather than in comparison among or between facilities.

State Facility
Abuse/Neglect Data

#Allegations/ #Substantiated

	2007	2008*	2009*	2010*	2011*	2012*	2013
Catawba	11/1	9/0	8/2	9/5	9/3	7/2	7/0
CSH	156/18	143/14	136/13	168/17	125/17	77/10	144/16
CVTC	60/16	98/36	87/21	46/15	56/18	51/21	35/20
CCCA	6/4	4/1	15/2	14/2	9/2	15/5	15/5
ESH	78/4	61/5	50/6	61/12	74/12	59/6	69/15
HDMC	7/0	4/1	3/1	3/0	9/6	2/0	6/4
NVMHI	16/6	24/3	28/0	39/1	24/1	32/7	4/0
NVTC	16/10	12/3	19/11	19/11	24/16	11/5	10/4
PGH	7/1	12/1	10/0	16/1	22/5	17/1	12/0
SEVTC	20/10	19/10	14/7	13/5	25/13	6/5	8/3
SVMHI	5/0	5/0	6/4	9/0	3/0	4/0	15/10
SVTC	101/25	75/34	60/36	92/57	123/110	58/25	12/7
SWVMHI	19/4	14/0	25/2	22/1	14/0	14/1	25/6
SWVTC	67/13	72/19	57/11	38/17	56/22	36/10	28/19
WSH	25/6	16/5	30/8	23/11	14/11	11/10	11/7
VCBR	14/0	35/4	29/4	27/19	114/16	105/37	70/23
Totals	608/118	603/136	577/128	599/174	701/252	505/145	471/139

* Includes data from CHRIS and the Regional Annual Report

State Facility
Human Rights Complaints

	2007	2008	2009	2010	2011	2012	2013
Catawba	8	74	57	31	26	39	45
CSH	97	291	163	231	167	208	523
CVTC	8	3	4	60	12	7	10
CCCA	25	41	36	8	19	12	7
ESH	54	215	264	582	633	723	848
HDMC	1	0	0	1	0	1	2
NVMHI	6	25	75	37	56	58	40
NVTC	0	4	0	1	9	1	12
PGH	42	21	0	1	74	17	20
SEVTC	3	2	7	2	3	4	2
SVMHI	39	46	50	18	12	9	4
SVTC	6	12	16	2	3	1	4
SWVMHI	14	42	30	34	39	32	30
SWVTC	10	22	7	11	3	20	5
WSH	70	345	295	134	333	373	228
VCBR	292	292	407	1271	1316	1312	1080
Totals	650	1435	1411	2424	2701	2817	2860

- Includes Complaints processed formally and informally
- Data from CHRIS